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SENATE BILL 419

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO HEALTH CARE; PROVIDING FOR HOME BIRTH ACCESS FOR
MEDICAID RECIPIENTS; ENACTING SECTIONS OF THE PUBLIC ASSISTANCE
ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public Assistance Act is
enacted to read:

" [NEW MATERIAL] HOME BIRTH SERVICES FOR MEDICAID
RECIPIENTS. -- A managed care organization that contracts with
the medicaid program, as well as the medicaid program itself,
shall not refuse to credential, re-credential or otherwise
contract with a licensed midwife or certified nurse-midwife as
a participating provider of home birth or birth center birthing
services because the licensed midwife or certified
nurse-midwife does not have current malpractice insurance that

underscored material = new
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1 covers the provision of such services by the midwife. If the
2 licensed midwife or certified nurse-midwife otherwise meets the
3 standards for credentialing or re-credentialing, the managed
4 care organization shall not deny participating provider status
5 or otherwise refuse to contract with the licensed midwife or
6 certified nurse-midwife. The medical assistance division of
7 the department shall ensure that these provisions comply with
8 federal laws and regulations. "

9 Section 2. A new section of the Public Assistance Act is
10 enacted to read:

11 "[NEW MATERIAL] REASONABLE ACCESS TO HOME BIRTH
12 SERVICES. --A managed care organization shall contract with a
13 sufficient number of licensed midwives and certified
14 nurse-midwives who are providers of home birth services so that
15 managed care members who are medicaid recipients will have
16 reasonable access to such services. "

17 Section 3. A new section of the Public Assistance Act is
18 enacted to read:

19 "[NEW MATERIAL] EXEMPTION FROM LIABILITY. --A managed care
20 organization that credentials, re-credentials or otherwise
21 contracts with a licensed midwife or certified nurse-midwife
22 who does not have current malpractice insurance, shall not be
23 liable, on either a direct or vicarious basis, for any
24 malpractice, misfeasance or negligent act or omission of the
25 licensed midwife or certified nurse-midwife that may directly

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1 or indirectly cause injury or harm to any person, including the
2 mother and baby, by reason of that contractual relationship or
3 payment for such services. The existence of a contractual or
4 other relationship between a licensed midwife or certified
5 nurse-midwife and a managed care organization shall not provide
6 a legal basis for finding the managed care organization
7 directly or vicariously liable for any acts or omissions by a
8 licensed midwife or certified nurse-midwife. "

9 Section 4. A new section of the Public Assistance Act is
10 enacted to read:

11 "[NEW MATERIAL] INFORMED CONSENT. -- A licensed midwife or
12 certified nurse-midwife must obtain written, informed consent
13 regarding the home birth services provided by the licensed
14 midwife or certified nurse-midwife from the medicaid recipient
15 who desires a home birth. Such informed consent shall consist
16 of the following:

- 17 A. the licensed midwife or certified
18 nurse-midwife's educational background;
- 19 B. the risks and benefits of home birth services;
- 20 C. the nature and scope of the care to be given;
- 21 D. the licensed midwife or certified nurse-midwife
22 malpractice insurance coverage or absence of malpractice
23 insurance coverage; and
- 24 E. if the licensed midwife or certified
25 nurse-midwife is not covered for home birth services by

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underscored material = new
[bracketed material] = delete

1 malpractice insurance, the fact that New Mexico law exempts the
2 managed care organization from any liability for any injury or
3 harm that might result from the licensed midwife or certified
4 nurse-midwife provision of home birth services. "

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